

RECEIVED

PETITION FOR WRIT OF HABEAS CORPUS
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

JUL 19 2002

UNITED STATES DISTRICT COURT

PERSONS IN STATE CUSTODY

United States of America ex rel.

Tiberius D. Mays N92625

(Full name and prison number)

(Include name under which convicted)

PETITIONER

vs.

Blair Leibach
(Name of Warden, Superintendent,
Jailor, or authorized person having
custody of petitioner)

RESPONDENT

and
ATTORNEY GENERAL OF THE STATE OF

* Illinois

JUDGE ANDERSEN

MAGISTRATE JUDGE DENLOW

020 5167

CASE NUMBER:

(To be supplied by Clerk)

DOCKETED
JUL 23 2002

- * This space should be filled in with the name of the state where judgment was entered only if petitioner is attacking a judgment which imposed a sentence to be served in the future. If petitioner has a sentence to be served in the future under a federal judgment which he wishes to attack, he should file a motion under 28 U.S. § 2255 in the federal court which entered the judgment.)

PETITION

1. Name the location of court which entered the judgement of conviction under attack Cook County Criminal Division, Chicago
2. Date of judgment of conviction May 28, 1987 / June 2, 1988
3. Length of sentence 65 years - 50 with consecutive 15
4. Nature of offense involved (all counts with indictment number or each, if known) 87-15982 - Attempt murder, Armed robbery, Armed violence, 3 counts of Aggravated batteries
5. What was your plea? (Check One)
(A) Not guilty (☒)
(B) Guilty (☐)
(C) Nolo contendere (☐)

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:

N/A

6. Kind of trial: (Check One)
(A) Jury (☐)
(B) Judge only - Bench (☒)
7. Did you testify at trial?
YES (☒) NO (☐)
8. Did you appeal from the judgment of conviction or imposition of sentence?
YES (☒) NO (☐)
(A) If you did appeal, answer the following:
(1) Name of court Illinois Appellate Court
(2) Result Denied - Affirmed

(3) Date of result

April 3, 1992

(4) Issues of raised

(4) Issues of raised involuntary confession, state's imple-
ment by prior conviction, property re-
failure of due process when asst. state's attorney
taking post-arrest statement turn a deaf ear when I revealed
~~that if you did not appeal, explain briefly why not.~~
arresting officers beat and threaten me in court reported stolen
evidence only prove armed robbery - attempt murder must
be reversed, did not prove my intent to kill to justify at-
tempt murder, criminal conduct not exceptionally brutal or
heinous behavior indicative of wanton cruelty - thus extend
term must be reduced, trial court erred at sentencing by
considering evidence of my substance abuse as aggravating,
sentencing court abused its discretion by weighing only
seriousness of offense & not giving a adequate consideration
to my rehabilitative potential

9. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed with respect to this conviction:

(A) Any petition in a state court under the Illinois Post Conviction Hearing Act, Ill.Rev. Stat. ch. 38, sec. 122

YES (☒) NO (☐)

(B) Any petitions in a state court by way of statutory cora nobis, Ill.Rev. Stat. ch. 110, sec 72?

YES () NO (X)

(C) Any petitions for habeas corpus in state or federal courts?

YES () NO (X)

(D) Any petitions in the United States Supreme Court for certiorari other than petitions, -if any, already specified in question (9)? -

YES () NO (~~X~~)

(E) Any other petitions, motions, or applications in this or any other court?

YES (X) NO ()

10. If your answer to any section of questions (9) was YES, give the following information:

(A) (1) Name of court

Illinois Supreme Court

People v Lucas - 132 Ill. 2d 579, 548 N.E. 2d 1025 (1989)

People v Andrews - 132 Ill. 2d 451, 548 N.E. 2d 1025 (1989)

People v King - 66 Ill. 2d 557, 363 N.E. 2d 835, 844 (1977)

(2) Nature of proceeding Appeal of direct appeal.

Lucas

(3) Grounds raised whether Lucas & Andrew, recent court rulings were departure of exceptionally brutal and indicative of wanton cruelty - setting a superior causing new bright line / prosecutor errored by deliberate ignoring police brutality in involuntary confession, Illinois Appellate Court conflict with other rulings in King, one Act, one

(4) Did you receive and evidentiary hearing on your petition application, or motion?

YES () NO (X)

(5) Result denied

(6) Date of result October 7, 1992

(B) As to any second petition, application, or motion, give the same information:

(1) Name of court Circuit Court of Cook County

(2) Nature of proceeding Post-Conviction - Hearing Act - 725 ILCS 5/122-1 et seq.

(3) Grounds raised (1) improper impeachment (2) trial judge bias (3) improper convictions for aggravated batteries (4) Failure of state to produce material witnesses (5) police coercion (6) ineffective assistance of counsel - 12 counts (7) ineffective assistance of Appellate counsel - 3 counts (8) denial of due process before grand jury

(4) Did you receive and evidentiary hearing on your petition application, or motion?

YES () NO (X)

(5) Result Petition was dismissed

(6) Date of result March 4, 1998

(C) As to any third petition, application, or motion, give the same information:

(1) Name of court Illinois Appellate Court

(2) Nature of proceeding Appeal of Post-Conviction

(3) Grounds raised all the same issues raised on page 4 of this petition in my original Post-Conviction Petition to the trial court in Cook County, Illinois

(4) Did you receive and evidentiary hearing on your petition application, or motion?

YES () NO (X) petition denied

(5) Result Finley Motion Filed by Office of State App. Def. -

(6) Date of result October 12, 1999

(D) Did you appeal to the highest state court having jurisdiction the result of action taken on any petition, application, or motion?

(1) First petition, etc.	YES (X)	NO ()
(2) Second petition, etc.	YES (X)	NO ()
(3) Third petition, etc.	YES (X)	NO ()

(E) If you did not appeal from the adverse action on any petition, application, or motion, explain briefly why you did not:

11. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same. If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

CAUTION: BEFORE PROCEEDING IN THE FEDERAL COURT, YOU MUST ORDINARILY FIRST EXHAUST YOUR STATE COURT REMEDIES AS TO EACH GROUND ON WHICH YOU REQUEST ACTION BY THE FEDERAL COURT.

(A) Ground one Due Process Violation By Asst. State's Atty. General Supporting **FACTS** (tell your story briefly without citing cases or law): NEY, EVA CLAY, when she deliberately ignored statements of police brutality from me during the taking of the involuntary statement when I revealed that police officers had beat and threaten me to make me talk.

During the taking of my involuntary state by the Asst. States Attorney, who interviewed me following my arrest denied me due process not by what she asked and did, but by what she didn't ask and didn't do.

The Court reported statement put into evidence against petitioner at trial included not only facts about the incident for which I had been arrested, the statement also shows with "shocking" clarity how the Asst. States Attorney taking the statement turn a deaf ear when she suddenly learned of evidence of police brutality before the statements was given.

When the prosecutor ignored evidence of an

- (B) Criminal conduct was not exceptionally brutal or heinous behavior indicative of wanton cruelty. Appellate Ground two: Court misapprehend impact of Andrews & Lucas Supporting FACTS (tell your story briefly without citing cases or law):

At the time of sentencing in my case, recent rulings by the Illinois Supreme Court clarified the meaning of the statutory phrase "exceptionally brutal or heinous behavior indicative of wanton cruelty," and indicated that the extend term sentence imposed here on such finding is insupportable and must be reduced to within the usual felony sentencing range of attempt murder.

The evidence in my case undisputedly shows no premeditation, prolonged pain, or torture. My criminal background shows no crimes of violence, no indication prior to the crime that he intended to kill the victim, and

- The Appellate Court erroneously overlooked the necessity of initially determining on review that there were 2 criminal acts before determining that the convictions for attempt murder and
- (C) **Ground three:** Armed robbery should be upheld. This can be supported by **SUPPORTING FACTS** (tell your story briefly without citing cases or law): With other Appellate divisions (1989-1992)

Where there is only one conviction/act, only one conviction can be had. Prejudice results where more than one offense is carved from the same physical act. The charging instruments allege the same force used against the victim, a beating with a pipe. The state's proof at trial regarding the force used against the victim consisted of a written statement by me and a stipulation by the victim's treating doctor. The statement related that when the victim turned his head, I hit him with a pipe, the victim hit the ground and was hit a couple more times with the pipe, and I turned him over and took his wallet.

- (D) **Ground Four:** ^{The effective assistance of trial counsel and appellate counsel by failure to raise the meritorious issue} **SUPPORTING FACTS** (tell your story briefly without citing cases or law): of "material witness" rule, which was applicable at the time of the petitioner's trial.

The petitioner contends that he made a forced confession because the police beat and threaten repeatedly. At the motion to suppress his statement, the Asst. State's Attorney - EVA CLAY, who heard the statement, did not testify at the suppression hearing or was she called by the State or petitioner's attorney. Nor was her absence explained. I asked my attorney to call her as a witness several times, but he refused. Neither trial or appellate counsel raised an issue to the State's failure to produce or explain the absence of Asst. State's Attorney EVA CLAY. At the motion to suppress confession.

Ground One

involuntary statement, that prosecutor ignored the due process guaranteed a criminal defendant independently under the U.S. Constitution, Amendments 5 & 14, and under the Illinois Const 1970, Art. I, secs, 2, 10. "A prosecutor is the representative of all people, including the defendant, and it is as much his duty to safeguard the constitutional rights of the defendant as those of any other citizens." "The duty of the prosecuting Attorney is to seek justice, not merely to convict."

The Asst. State's Attorney was not called at trial to testify. At no time did the State or trial judge address defense counsel's chief argument, however, the prosecutor's ignoring evidence of police brutality should per se render petitioner's statement inadmissible.

Any assistant State's Attorney may be deemed, by judicial notice if not testimony at a hearing, to know how police coercion and particularly, police brutality would threaten if not render inadmissible any resulting confession, drastically undermine chances of a successful prosecution.

There is absolute transcript evidence that the State heard, if it didn't see, that I was injured by police to force me to talk. The failure of a party to introduce evidence which would conclusively settle a doubtful issue, such as failure to show investigation of whether there was police brutality here, gives rise to presumption that such evidence, if produced, would be adverse to that party. There should be a presumption adverse to the State where coercion went uninvestigated, a presumption of police brutality, and that my statement was involuntary.

Ground One

The colloquy between the interviewing prosecutor and petitioner shows how information about the arresting police officers' treatment was deliberately ignored.

Q: About how many officers appeared?

A: Two

Q: All right. And at that time did you tell them-- did they question you about the beating [of the victim]?

A: They come in and they said basically-- they come in and asked me if I was Ti or Tiberius and then they--

Q: All right.

A: -- And they they said we know you did this and that and--

Q: Did you relate to them what happened?

A: And I denied and they hit me a couple of times you know. They said they were going to do this and they were going to do that and then--

Q: Did--

A: -- one of the officers went in the bathroom and got the wallet out and asked me where is the information at.

Q: All right. Was the wallet that he presented to you the same one that you removed off the body of the man that you had beaten with the pipe?

A: Yes, I assume it was

(Supp. C. 12, see also R. 132) (emphasis added)

I had spoke to the Asst. State's Attorney earlier, asking her if she could get me a public defender. EVA CLAY, Asst. State's Attorney, told me that she could not do that, that would be "unethical." This is why EVA CLAY stated in

record (R.119-120), that she was KAW Assistant State's Attorney a lawyer working with the police and not my lawyer. Defense counsel filed a motion to suppress statement, with the chief basis as involuntariness because of police beatings and threats. The prosecutor cut me off when I was telling her about the police beatings. The prosecutor did not follow up or investigate about the beatings and threats by me in the statement. These statement should not be allowed to be used against me. Something that was also missed is that in the paramedic's report on the day I was arrested, I stated to him that the police hit me continuously in the stomach and upper leg areas. On the paramedic's report, these areas are marked on a body picture in the report.

I am asking that the confession be suppressed, and the fruit which flowed subsequent by coercion of the arresting officers. The cause should be reversed and remanded for a new trial.

GROUND TWO

NO indication he exhibited a callous attitude and complete lack of remorse following the murder, such as in the controlling case for exceptionally brutal & heinous behavior. In the closing arguments, defense counsel asserted that the defendant "had expressed extreme remorse for the situation to me."

In this case, I was physically affected by drugs and alcohol. The state's key witness, Lennie Williams, knew me and stated that before the crime, I was walking clumsily, smelled like

GROUND TWO

Alcohol and marijuana, and was "tipsy". (RE:44-47).

Furthermore, the incident occurred spontaneously. The extent of the victim's injuries are not a measure of my mental state. I did not attempt to kill the victim. It was dark outside. I was high, the blows fell in unintended places while the victim was moving on the ground, I was wearing dark glasses. It is erroneous for the trial judge to ignore the context and just focus on the nature of the injuries only. The victim was alive and never came to the trial to pick me out.

All murders are brutal and heinous to a certain degree. The extended term sentences were not intended to convert every offense into an extended term sentence.

The Appellate Court's published opinion contravenes the limits that were established by the Illinois Supreme Court. The trial court abused its discretion in imposing an extended term for conduct which was not exceptionally brutal or heinous and indicative of wanton cruelty.

This Court should reduce my sentence for the most serious or only offense (see separate issue that his attempt murder conviction must be reversed as proof shows only armed robbery) to within the usual sentencing range or remand with such directions for resentencing by a different judge.

from his back pocket and fled.

Whereas the indictment for Armed robbery alleged that I
"by use of force and by threatening the imminent use of force
while armed with a dangerous weapon, took a wallet from
person and presence of [the victim] C.18, the facts show only use
of force, not threat of force and the fact show use of force to
obtain property, not to kill. To sustain a charge of Armed
robbery, it is essential that the robber use violence or fear of
violence as a means to take property in the control of the
victim.

The offense of attempted murder requires a mental
state of specific intent to kill, and intent to kill, if not admitted,
can be established by proof of surrounding circumstances.
Proof of intent to kill is distinct from proof of intent to take
property forcibly.

There was an intent to take property forcibly here. How-
ever, a finding of commission of Armed robbery where the rob-
bery victim was severely injured is insufficient in itself to
support a finding of Attempt murder.

I did not admit in my statement, involuntary, that
I intended to kill the victim. I admitted to Armed robbery.
It is impermissible to infer an intent to kill from the injuries
of the victims from 3 to 4 blows from a pipe. The force used
preceded the taking of property and did not follow the taking.

The wounds to the victim occurred without a substantial
time interval or intervening act, as well as prosecutorial intent
as reflected in the charging instruments which show intent to
treat my conduct as a single act show there was only a
single act here.

GROUND THREE

The Appellate Court's published opinion indicated that a deferential review standard may be applied to affirm without addressing whether there are enough acts to support the number of convictions. Their opinion mentions, but does not actually address the need to determine the one act, one crime first. This important question should be reviewed and answered.

The law in Illinois was clear and favorable to the petitioner. Regardless of what offenses were at issue, only one conviction could be sustained where, despite several injuries, there was but one physical act.

But vis-a-vis the other Appellate divisions' opinions, it overlooks that the four similar lacerations to the top of the victim's head here were inflicted without intervening events (R. 006-08, 123-26), and the charging instruments allege the same force on the victim with a pipe for both Attempt murder and armed robbery.

The Appellate Court's affirmance violates the one act, one crime principle and conflicted with other recent Illinois opinion then (1992). The conviction for attempt murder must be reversed since more than one offense has been carved from the same physical act.

GROUND FOUR

GROUND FOUR

Although the Appellate Court ruled that my confession was voluntary, under the "material witness rule", once the defendant raises the contention that his statement was involuntary or coerced, the State carries the burden to demonstrate that the statement was voluntary and must produce all witnesses all material witnesses on issues of confessions or satisfactory explain their absence, which the Asst. State's Attorney for my trial did either. There is no explanation for Asst. State's Attorney Clay not coming to the suppression hearing or did she know

The failure of the State concerning the material witness rule, should have been objected to by the trial counsel, therefore making this issue waived for direct appeal. Asst. State's Attorney Clay's testimony would have explained several things: why did she not ask questions about the police beating and threats when she was made aware of it in a court reported statement, (2) why ASA Clay told me that she could not get a public defender for me when I asked her to when she first saw me

The statement given by me made the conviction. All the other evidence is not enough by itself to make a conviction.

The Appellate Counsel failed to raise the meritorious issue of the "material witness rule" in her briefs to the Appellate and Supreme Court of Illinois

Although the material witness rule became void in 1993, it was the law during my trial in 1989. This error, not harmless, deprived me a fair trial under due process from the ineffective assistance of counsel. A new trial is warranted.

GROUND FIVE

The petitioner was denied a fair trial by the ineffective assistance of trial and Appellate counsel by failure to raise / object the mentioned issue of improper impeachment in 2 respects.

On Appeal, the Appellate Counsel for me on direct appeal briefed an issue regarding the State's use of prior conviction to impeach the petitioner during the suppression hearing. The Illinois Appellate Court refuse to address this issue of impeachment stating that the trial attorney did not preserve the issue by objecting and placing it in his post trial motion. The Appellate counsel did not allege ineffective assistance of trial counsel to obtain a ruling on the issue, making her ineffective.

The State improperly impeached me by using a 1410 probation, first offender, which is not a conviction to impeach, and the state used an uncertified statement of my convictions on rebuttal. The trial judge explicitly stated that he relied on these prior convictions to find the petitioner not credible through impeachment during the suppression hearing of an involuntary statement. These two errors in impeachment require a reversal and remand for a new suppression hearing and new trial.

The State made no effort to submit required certified copies of convictions. The trial judge used these convictions, improperly provided, to "disbelieve" everything I said about being beaten and threaten by the police.

The trial counsel was deficiently cumulatively by failing to object to improper impeachment with a 1410 probation and failing to object to uncertified copies of conviction used to impeach me, and

GROUND FIVE

and failure to not file issue in post trial petition. The trial judge relied on incorrect, improper evidence to impeach me.

This issue requires reversal and remand.

GROUND SIX

The petitioner was denied effective assistance of counsel by both the trial and appellate counsels by their failure to raise object to the convictions of three aggravated batteries which are lesser included offenses of attempt murder.

At the conclusion of my bench trial, the judge entered a finding of guilt on three counts of aggravated batteries (R.157) stating he merged them with aggravated batteries (?). It is improper and an abuse of the trial judge's discretion to convict me of both an offense and lesser included of the same offense.

The trial attorney was ineffective for failing to object in sentencing to the aggravated battery convictions and also by not placing this issue in his post trial motion. Counsel is expected to be familiar with the law.

The appellate counsel was ineffective for failure to brief and argue the aggravated battery conviction by stating ineffective assistance of trial counsel. Under the 6th Amendment, I have a constitutional right to effective assistance of appellate counsel.

GROUND SIX - continued

Appellate Counsel's failure to brief a meritorious issue has been recognized as a Constitutional violation. Appellate counsel is expected to know the law. Trial counsel's failure to object or raise the error does not alleviate the appellate counsel's responsibility to include this meritorious issue.

GROUND SEVEN

The petitioner was denied a fair trial by the trial judge who abused his discretion by being bias, displaying animosity and using improper errors in the trial - Appellate and trial counsels were ineffective for failure to raise/obj to judicial biasness.

The petitioner has a constitutional right to an unbiased, open-minded trier of fact. The petitioner was denied an impartial judge by Judge Getty's action. Due to the practical difficulties inherent in objecting to the conduct of a judge, these issues are generally not waived.

Both the trial and appellate counsels did not object to the trial judge's actions. The Appellate counsel refused to use this issue after I asked her to or frame it under ineffective assistance of trial counsel. My post-conviction counsel refuse to expound on the issue.

The trial judge is presumed to know the law and apply it properly. The trial judge should be an example of dignity and im-

GROUND SEVEN

partiality. Judges should exercise restraint over their conduct and utterances. Judges should suppress their personal predilects and control their tempers and emotions and refrain from unnecessary disparagement of persons or issue.

The trial judge, Asst State's Attorney - ASA - Bigoness and my lawyer, John DeLeon, had two pre-trial conferences in October and December 1988, where plea negotiations were given to the petitioner's counsel by both Judge Getty and ASA Bigoness for 50 years in October 1988 and 45 years as a final offer for a plea of guilty in December 1988. The petitioner received 65 years in a bench trial. I was punished for exercising my right to a trial by 20 years.

The trial judge clearly showed a predisposition to extended and consecutive terms since Armed robbery and attempt murder carry only 6 to 30 years, and most sentences are ran concurrently. The trial judge showed that my admission of guilt would reduce my sentence, which shows the sentence was improperly influenced by my claim of innocence. The trial and Appellate counsel did not raise this issue of the trial judge's predisposition to a sentence past normal statutory limit without extended or consecutive terms, and that my claim of not guilty cost me 20 years after Judge Getty's final offer of 45 years.

The trial judge also impeached me with an uncertified copy of my convictions, which were a misdemeanor and 1410 probation, which can't be used as a conviction. The trial judge impeached my testimony with a misdemeanor for jumping a train terminal for a free ride in downtown Chicago. The trial

GROUND SEVEN

Judge relied on improper evidence, and this warrants a new suppression hearing on the statement.

The trial judge characterized me as a "jailhouse lawyer" claiming I used a clever ploy to destroy the efficiency of the forced confession by stating the arresting officers hit and threaten me. It was an abuse of discretion to express his personal beliefs and attack the credibility of me without proof. The trial judge assumed the role as an advocate showing personal involvement. The trial judge also used my prior conviction, a misdemeanor, to claim that I was familiar with the legal system, an assumption not based on facts. I was not familiar with the legal system to the degree the trial judge stated and it is improper to refer to my prior conviction as substantive proof that I was familiar with the legal system, and that because of this familiarity, I was lying and trying to get out the easy way.

The trial judge stated disbelief that I was drunk and high off of drugs and alcohol despite the prosecutor's chief witness testimony and the Judge's own admission that 80% of all arrested in Cook County have illegal drugs in their systems. The trial judge again showed distrust and bias toward me as it to say that I was lying again about something without proof.

The trial judge made disparaging remarks, "you have these honors to tack onto the others," using biting sarcasm about adding 65 years to my honors in school and Army employment. The trial judge stated, "he won't be released a day too soon as far as I'm concerned," The judge again has displayed obvious animosity, hostility and attempts to mask

GROUND SEVEN

it with another off-centered personal statement about me, " [this is] one of the most wantonly brutal and heinous cases that I have ever seen." Judge Getty said the same thing in *People v Chavez*, a case going on at the same time my case was in front of him.

The trial judge stated that I was a "totally reprehensible person," and that "I chose a life of crime and drugs." How can the trial judge claim I choose a life of crime when I only had a 1460 probation, a misdemeanor, and failure to see probation officer. I did not get into any trouble with the law until one month from my 24th birthday and was arrested for the conviction one month before my 27th birthday. Judge Getty obviously was covering up his improper decisions by making it look like I was a major criminal and evil person.

Also, the trial judge abused his discretion by convicting me of three aggravated batteries, lesser included offenses of attempt murder.

The petitioner ask that this Honorable Court look at the cumulative effect of the trial judge's actions and abuse of discretion and reverse the conviction or order a new trial.

GROUND EIGHT

The trial court erred in dismissing without a hearing the petitioner's Pro Se Petition for Post-Conviction Relief because the petitioner had a valid constitutional issue under

GRAND EIGHT

APPENDI, which should be allowed a retroactive application in a collateral review.

On January 29, 2001, Honorable Lon W. Shultz, Cook County Circuit Judge, entered a four page order stating that my petition did not state a claim that "is not cognizable under the Act because Appendi does not apply retroactively to cases on collateral review." My petition was dismissed.

On June 2, 1989, Judge Getty sentenced me to an extended term of 50 years for Attempted murder and a consecutive 15-years for Armed robbery. On November 2, 2000, I filed my second petition for post-conviction, pro se, stating: the trial court imposed extended and consecutive terms after it had determined that my behavior in committing these crimes was heinous indicative of wanted behavior. The State failed to state in its indictment that it would seek extended and consecutive terms. The relevant facts used to give extended and consecutive terms were not submitted to a jury for its finding beyond reasonable doubt. The trial judge abused his discretion, violating my constitutional rights. There are divisions within the Illinois Court system concerning Appendi.

The new rule of Appendi is a bedrock procedural element, which is a watershed rule of criminal procedure

GROUND EIGHT

I was not asked by the trial judge if I wanted a jury determination of whether my actions were indeed brutal and heinous indicative of wanton cruelty. The finding by the trial judge that my actions were heinous and brutal were not based on a beyond a reasonable doubt standard. The fact that my increased sentence beyond the prescribed statutory maximum was not submitted to a jury or proven beyond a reasonable doubt. Therefore, this Court should vacate the extended term and consecutive sentence, which adds to extend my sentence, by remanding and reversing this case for a new sentence - no less than 6 years and no more than 30 years and that the consecutive sentence be concurrent.

The ultimate outcome of the consecutive sentencing is to increase my sentence. I was never charged with committing the element of "severe bodily injury" or "whatever the trial judge used give me a consecutive sentence."

I cannot be convicted of a crime which has not been charged with having committed - not in the indictment. The judge convicted me on extended and consecutive sentencing, charges never made against me and never heard by a jury, and did it based on a preponderance of the evidence.

I was charged with an offense, attempt murder, which carries 6 to 30 years maximum. The offense of Armed robbery carries 6 to 30 years. The petitioner argues that consecutive sentence against him used by the Illinois Revised Statutes, Chapter 38, Section 1005-8-4 (A), was unconstitutional applied

GROUND RIGHT

to him, and this Court should determine that the trial court's imposition of consecutive sentences upon me were unconstitutional as per Apprendi. The extended term under the Illinois Revised Statute, Chapter 38, 730 ILCS 5/5-8-2 is unconstitutionally applied under Apprendi, which should be allowed a retroactive application.

12. Have all grounds raised in this petition been presented to the highest court having jurisdiction?

YES (X) NO ()

13. If you answered "NO" to question (12), state briefly what grounds were not so presented, and give your reasons for not presenting them:

14. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack?

YES () NO (X)

(A) If yes, state the name of the court and the nature of the proceeding.

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(A) At preliminary hearing

(B) At arraignment and plea Tom Powers, Asst. Public Defender
en 69 West Washington, Chicago, IL 60602

(C) At trial John R. DeLeon, 53 West Jackson
Blvd, Chicago, IL 60604

(D) At sentencing John R. DeLeon, 53 W. Jackson Blvd
Chicago, IL 60604

(E) On appeal Pamela PFrang, Asst. Public Defender.
69 West Washington, 15th Fl, Chicago, IL 60602

(F) In any post-conviction proceeding _____

(G) On appeal from any adverse ruling in a post-conviction proceeding 2nd Post-Conviction Appeal Issue -
Office of Cook County Public Defender
Eun. W. Cho - 69 W. Washington, 15th Fl. Chicago, IL 60601

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?
YES (X) NO ()

17. Do you have any future sentence to serve after you complete the sentence imposed by judgment under attack?
YES () NO (X)

(A) If YES, give the name and location of the court which imposed sentence to be served in the future:

(B) And give the date and length of sentence to be served in the future _____

WHEREFORE, petitioner prays that the court grant petitioner relief to which he may be entitled in this proceeding.

Felherman May, Pro Se
Signature of attorney (if any)

Felherman May
Signature of petitioner

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed on July 16, 2002
(Date)

Felherman May
(Signature of petitioner)
N92625

(I.D. Number)
3820 East Main St
(Address)

Denville, IL 61834
Denville Correctional Center

STATE OF ILLINOIS)

COUNTY OF VERMILION)

SS

AFFIDAVIT

I, Tiberius Mays, deposes and says that
as to the petition herein, he is the Defendant in the above
entitled cause; that he has read the foregoing document, by
his signed, and that the statements contained therein are
true in substance and in fact.

/s/ Tiberius Mays
Defendant, pro se

Signed before me this 16th day of July, 2002
Kathy Bott
Notary Public



Documentary Evidence



office of the
COOK COUNTY PUBLIC DEFENDER

200 WEST ADAMS STREET • 4TH FLOOR • CHICAGO, IL 60606 • (312) 609-2040

Randolph N. Stone • Public Defender

Appeals Division
November 4, 1991

Mr. Tiberius Mays
N-92625
Pontiac Correctional Center
Box 99
Pontiac, IL 61764

re: Appeal No. 90-243

Dear Mr. Mays:

Thanks for your letter of October 8th. I'm sorry it's taken a while to respond but it's been busy.

With regard to the issues I raised in the opening brief, I'm glad you liked them. I did a great deal of work, and, as I promised, I did look at all the cases you listed, and did find some of extra value to those already located. In response to your question, an issue not raised in the opening brief but raised for the first time in a reply brief is deemed waived. See People v. Thomas, 116 Ill.2d 290, 507 N.E.2d 843 (1987). I raised in the opening brief those issues I felt had merit. I did not feel there was merit to any further ineffective assistance claim (What could the ASA have said further? The bare words in the transcript makes the situation look most damning.) or corpus delicti claim. (There was independent proof of a crime and your connection to it.)

I have enclosed the Appellate Court's latest order, granting our motion to file a supplemental record. The State frivolously argued I hadn't alleged it to have been in evidence, but the Court wisely rejected that argument.

Please contact me if you have questions or comments, Mr. Mays.

Best wishes.

Sincerely,


Pamela Pfaff
Assistant Public Defender

STATE OF ILLINOIS
COOK COUNTY

} No. 87CR - 15982

AFFIDAVIT

- 1: I John R. Deleon, attorney for Tiberius D. Mays, criminal circuit court trial before JUDGE MICHAEL GETTY in 1988-1989, swear under the penalty of perjury that the following information is true and -accurate to the best of my knowledge.
- 2: I was hired as Tiberius D. Mays' attorney in _____, 1988 for case #87CR - 15982. For representation for the charges of attempted murder, armed robbery and 3 aggravated battery.
- 3: In October 1988, I along with Judge Getty and Assistant States' Attorney JIM BIGONESS, had a pre-trial conference meeting in which the States' Attorney offered a plea negotiation of (50) fifty years to MR. MAYS. MR. MAYS refused that offer.
- 4: In December 1988, I again had another pre-trial conference meeting with Judge Getty and Assistant States' Attorney Jim Bigoness in which Judge Getty gave a final offer of (45) forty-five years to Mr. Mays as a plea negotiation for guilty or no contest. Mr. Tiberius D. Mays refused.
- 5: Mr. Mays received (65) sixty-five years total for a sentence of guilty on attempted murder, (50) fifty-years extended term, (15) fifteen-years for armed robbery (runs consecutive to the (50) fifty-years), and aggravated battery merged (no time given).
- 6: This affiant sayeth nothing further. Respectfully;

ATTY. NAME:

ADDRESS:

CITY:

John R DeLeon
53 WEST JACKSON BLVD.
CHICAGO, ILLINOIS 60604

NOTARY PUBLIC SEAL:

*SUBSCRIBED AND SWORN TO
BEFORE ME THIS 9TH DAY OF AUG. 1999.*

Donna Makowski
OFFICIAL SEAL
DONNA MAKOWSKI
NOTARY PUBLIC STATE OF ILLINOIS
MY COMMISSION EXP. MAR. 5, 2002

STATE OF ILLINOIS)
)
COUNTY OF WILL)
)

SS.

AFFIDAVIT

I, Tiberius Mays N-92625, Pro Se, being first duly sworn on oath, depose and state that the following information is true and accurate to the best of my knowledge and belief.

1. On November 4, 1987, at Area Five Police station on Grand Ave. in Chicago, Illinois, Assistant State's Attorney Eva Clay came to interview me about the beating of John Sarnecki.

2. On the same date, Nov. 4, 1987, ASA Eva Clay started to question me about the particulars of the case I am now appealing concerning the attempt murder and armed robbery of John Sarnecki.

3. After talking to ASA Clay for a minute, I asked her if she was my public defender.

4. ASA Clay said to me that she was not my public defender

5. When I asked ASA Clay if she would get me a public defender, ASA Clay told me that it would be unethical for her to get me a public defender.

6. I told ASA Clay that I had nothing to talk to her about and she left.

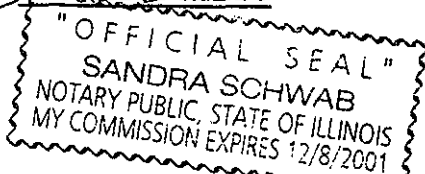
7. This affiant sayeth nothing further

Tiberius Mays
Tiberius Mays N-92625
P.O. Box 112
Joliet, IL. 60434-0112

SUBSCRIBE AND SWORN TO BEFORE ME

ON JULY 14, 1999.

Sandra Schwab
NOTARY PUBLIC



89257

ILLINOIS SUPREME COURT
JULEANN HORNYAK, CLERK
SUPREME COURT BUILDING
SPRINGFIELD, ILLINOIS 62701
(217) 782-2035

May 31, 2000

Mr. Tiberius Mays
Reg. No. N-92625
P. O. Box 1700
Galesburg, IL 61401

No. 89257 - People State of Illinois, respondent, v. Tiberius Mays, petitioner. Leave to appeal, Appellate Court, First District.

The Supreme Court today DENIED the petition for leave to appeal in the above entitled cause.

The mandate of this Court will issue to the Appellate Court on June 22, 2000.

74195

ILLINOIS SUPREME COURT
JULEANN HORNYAK, CLERK
SUPREME COURT BUILDING
SPRINGFIELD, ILL. 62706
(217) 782-2035

October 7, 1992

┌

Cook County Public Defender
200 West Adams St., 4th Flr.
Chicago, IL 60606

#90 -0243

L

No. 74195 - People State of Illinois, respondent, v. Tiberius
Mays, petitioner. Leave to appeal, Appellate
Court, First District.

The Supreme Court today DENIED the petition for leave to
appeal in the above entitled cause.

The mandate of this Court will issue to the Appellate Court
on October 29, 1992.

Phrang

RECEIVED
COOK COUNTY PUBLIC DEFENDER
OCT 09 1992
AM 7, 8, 9, 10, 11, 12, 1, 2, 3, 4, 5, 6 PM
▲

89257

ILLINOIS SUPREME COURT
JULEANN HORNYAK, CLERK
SUPREME COURT BUILDING
SPRINGFIELD, ILLINOIS 62701
(217) 782-2035

May 31, 2000

Mr. Tiberius Mays
Reg. No. N-92625
P. O. Box 1700
Galesburg, IL 61401

No. 89257 - People State of Illinois, respondent, v. Tiberius Mays, petitioner. Leave to appeal, Appellate Court, First District.

The Supreme Court today DENIED the petition for leave to appeal in the above entitled cause.

The mandate of this Court will issue to the Appellate Court on June 22, 2000.

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

FILED

MAY 11 1988

IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT-CRIMINAL DIVISION

MORGAN M. FINLEY
CLERK OF THE CIRCUIT COURT
CRIMINAL DIVISION

PEOPLE OF THE STATE OF ILLINOIS)

Plaintiff,)

-vs-)

TIBERIUS MAYS)

Defendant.)

Indictment No. 87-CR-15982

MOTION TO SUPPRESS STATEMENTS

Now comes the defendant and his attorney, RANDOLPH N. STONE, Public Defender of Cook County, by THOMAS M. POWER, Assistant Public Defender, and moves this Honorable Court to suppress as evidence herein any and all oral or written communications, confessions, statements, or admissions, whether inculpatory or exculpatory, made by the defendant prior to, at the time of, or subsequent to his arrest in the above-entitled cause.

In support of this motion, the defendant states as follows:

1. That the defendant was arrested on November 4, 1987 in the vicinity of 542 N. Pine, Chicago, Illinois.
2. That at relevant times the defendant was interrogated by law enforcement officials or a person or persons acting on their behalf.
3. That prior to such interrogation the defendant was not:
 - a. Informed that he had a right to remain silent;
 - b. Informed that anything he might say or do could be used against him in court;
 - c. Informed that he had a right to consult with a lawyer;
 - d. Informed that he had a right to have a lawyer present with him during the interrogation;

-2-

- e. Informed that, if he was indigent, he would nonetheless be provided with a lawyer by the State to be present during his interrogation.

4. That due to the physical, physiological, mental, educational, emotional and/or psychological state, capacity and condition of the defendant, he was incapable and unable to appreciate and understand the full meaning of his Miranda rights and any statement was therefore not the free and rational choice of the accused and was not made voluntarily, knowingly and intelligently.

5. That the statements sought to be suppressed were obtained as a result of interrogation which continued after the defendant had elected to remain silent and/or had elected to consult with an attorney prior to further questioning.

6. That the statements sought to be suppressed were obtained as a result of physical coercion illegally directed against the defendant, to wit: the defendant was struck 3 or 4 times in the stomach, and that such statements were, therefore, involuntary.

7. That the statements sought to be suppressed were obtained as a result of further threatened physical force, therefore, involuntary.

8. That the assistant state's attorney was on notice of the involuntary nature of the defendant's statement in a court reported statement taken by Assistant State's Attorney, Evelyn B. Clay. The defendant did inform Ms. Clay that he was beaten by police officers, and the State's Attorney was therefore on notice that his statements were not voluntary. (Page 12 of the Court Reported statement. See attached exhibit).

9. That Assistant State's Attorney Ms. Clay totally ignored the defendant's statement, and that such statements were therefore taken with the knowledge that they were involuntary.

-3-

10. That the statements sought to be suppressed were obtained as a result of physical coercion illegally directed against the defendant and that such statements were, therefore, involuntary.

11. That the statements sought to be suppressed were obtained as a result of psychological and mental coercion illegally directed against the defendant and that such statements were, therefore, involuntary.

12. That the statements sought to be suppressed were obtained as the product of and as the result of confronting the accused with certain evidence which has been obtained in derogation of the defendant's Fourth Amendment protection against illegal search and seizure.

13. That the statements sought to be suppressed were obtained as the product of and as the direct and proximate result of confronting the accused with certain material misrepresentations.

14. Therefore, that any and all communications, confessions, statements, admissions, or tests executed by the defendant were elicited in violation of his constitutional rights under the Fourth, Fifth, Sixth and Fourteenth Amendments to the Constitution of the United States and the Constitution of the State of Illinois.

WHEREFORE, the defendant prays:

1. That the Court conduct a pretrial hearing to determine if the nature of such statements were voluntary, and;

2. That this Court suppress as evidence herein any and all communications, confessions, statements, actions, admissions, or tests, inculpatory or exculpatory, written or oral, made by him the time of and/or subsequent to his being taken into custody.

RANDOLPH N. STONE
Public Defender of Cook County

BY: THOMAS M. POWER
Assistant Public Defender 30295

Richard May

Richard May

Thomas M. Power

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CRIMINAL DIVISION

PEOPLE OF THE STATE OF ILLINOIS,)

PLAINTIFF,)

-vs-)

TIBERIUS MAYS,)

DEFENDANT.)

NO. 87 CR 15982

FILED

JUN 2 1989

ADAM F.
CLERK OF THE CIRCUIT COURT
CRIMINAL DIVISION

MOTION FOR A NEW TRIAL

Now comes the defendant, TIBERIUS MAYS, by and through his attorney, JOHN R. DE LEON, after a finding of guilty respectfully moves this Honorable Court to set aside the verdict of guilty in the above-captioned cause and grant him a new trial.

In support whereof, defendant states:

1. The State failed to prove the defendant guilty of the charge beyond a reasonable doubt.
2. The verdict is against the manifest weight of the evidence.
3. The defendant was denied due process of law.
4. The defendant was denied equal protection of the laws.
5. The State failed to prove every material allegation of the offenses beyond a reasonable doubt.
6. The defendant did not receive a fair and impartial trial as guaranteed him under Article I, 2, 6, 8 and 10 of the Constitution of the State of Illinois and under the Fourteenth Amendment of the Constitution of the United States.

7. The Court erred in overruling the defendant's motion for a directed verdict at the close of the State's case.

~~8. The Assistant State's Attorney made prejudicial & inflammatory and erroneous statements in closing argument designed to arouse the prejudices and passions of the judge thereby prejudicing the defendant's right to a fair trial.~~

9. The verdict is based upon evidentiary facts which do not exclude every reasonable hypothesis consistent with the innocence of the defendant.

10. The court erred in overruling certain objections made by the defendant and in sustaining various objections raised by the State.

Wherefore, for the various reasons urged before and during the trial and every error as may appear from the official transcript of proceedings of the trial, defendant requests a New Trial in the above-captioned cause.

11. The Court erred in denying defendants re-trial motions

John R. DeLeon

JOHN R. DE LEON
53 West Jackson Blvd.
Suite 1430
Chicago, IL 60604
(312) 347-0024

9. The People have no knowledge at this time that any of its potential witnesses have any criminal convictions.
10. The People intend to use certified copies of all convictions of the defendant, if any exist, for purposes of impeachment during the trial of this cause. The record of these convictions is available for inspection.
11. The People may or may not rely on the following prior acts or convictions of the defendant of a similar nature for proof of knowledge, intent, motive, scheme, or design: See tendered B of I and investigation continues
12. The dates, times, places, circumstances, results, and persons present at any identification confrontations involved in this cause are contained in the police reports tendered to the defense in open court.

Any photographs available to the People which were used in connection with any photographic identification will be made available for inspection.

Any lineup photographs available to the People will be made available for inspection.
13. No electronic surveillance was employed in connection with this cause.
14. Any evidence which was acquired by the execution of any legal process, whether a search warrant, arrest warrant or other process or court order, is listed in 6 (a) and in the police reports and other documents tendered to the defense in open court, if such process was used.

A copy of any legal process executed in connection with this cause will be available for inspection and copy if a copy is not in the court file.
15. No informant that the People intend to call as a witness in the trial of this cause exists.
16. The People are unaware of any evidence or witnesses which may be favorable to the defense in this cause.
17. The People will comply with lawful orders of Court in this cause.

RICHARD M. DALEY, 10295
State's Attorney of Cook County

By:

Catherine Quattrocchi
Assistant State's Attorney



CONSENT TO INTAKE
EVALUATION AND EXAMINATION

I, the undersigned, do hereby request, authorize, and consent to the above and foregoing medical evaluation administered by the medical personnel of Cermak Health Services, in order to help, aid or assist the Medical Staff to evaluate my general physical condition, to determine the causes of my complaints and/or symptoms, to screen for any contagious disease which I may have (TB, VD, Hepatitis), and to assess my needs for special housing, diet, treatment, or medication, and to provide such treatment as may be required.

Patient: Isheem D-Mog Date: 11/4/87 Time: 1 A

(Staple to Bruise Sheet)



CERMAK HEALTH SERVICES
2800 S. California Ave. Chicago, Illinois 60608

History & Physical Examination

MAYS *Tiberius* **NOV 04 1987** *62Q* **8742447**
 Last Name First Name Date Location I.D. Number
817 West Monroe Chicago, Ill. 60607
 Address
12-12-60-26 340-60-5755 M Black
 Birth Date Age Social Security No. Sex Race Parent's Names

Medical History and Review of Systems

1. Head injury	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
2. Eye problems	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
3. Ear, nose or throat trouble	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4. Sinusitis	Yes <input type="checkbox"/>	No <input type="checkbox"/>
5. Mental problems (Institutional care)	Yes <input type="checkbox"/>	No <input type="checkbox"/>
6. Asthma	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
7. Chest pain or pressure sensation	Yes <input type="checkbox"/>	No <input type="checkbox"/>
8. Tuberculosis	Yes <input type="checkbox"/>	No <input type="checkbox"/>
9. Heart trouble	Yes <input type="checkbox"/>	No <input type="checkbox"/>
10. High or low blood pressure	Yes <input type="checkbox"/>	No <input type="checkbox"/>
11. Hepatitis	Yes <input type="checkbox"/>	No <input type="checkbox"/>
12. Hernia or rupture	Yes <input type="checkbox"/>	No <input type="checkbox"/>
13. Operations	Yes <input type="checkbox"/>	No <input type="checkbox"/>
14. Skin disease	Yes <input type="checkbox"/>	No <input type="checkbox"/>
15. Broken bones	Yes <input type="checkbox"/>	No <input type="checkbox"/>
16. Venereal disease	Yes <input type="checkbox"/>	No <input type="checkbox"/>
17. Allergy to drugs, food etc.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
18. Diabetes Mellitus	Yes <input type="checkbox"/>	No <input type="checkbox"/>
19. Seizure Disorders or Fits	Yes <input type="checkbox"/>	No <input type="checkbox"/>

Remarks

2. GLASSES

6. WALK

NO 4

Females Only

20. Treated for female disorder	Yes <input type="checkbox"/>	No <input type="checkbox"/>
21. Change in menstrual pattern	Yes <input type="checkbox"/>	No <input type="checkbox"/>
22. Pregnancies	Yes <input type="checkbox"/>	No <input type="checkbox"/>

Habits

Alcohol yes Tobacco yes Drugs GAH
 Methadone Maintenance 0

Family History

Hypertension 0 Heart Disease 0 Diabetes M. 0
 Renal Dis. 0 Tuberculosis 0 Other 0

Chief Complaint 573 2nd

History of the Present Illness

Physical Examination

Key

Height 6 Temp. 96.5 Resp. 18
 Weight 178 Pulse 80 Blood Pressure 110/80/78

N = Normal Findings
 ND = Not Done

+ = Positive Findings
 - = Negative Findings

Appearance

Medium
 Obese
 Thin
 Ambulatory/
 Bedridden

Skin

Icterus
 Turgor
 Lesions

Head

Laceration
 Hematoma
 Bleeding
 Other Lesions

Eyes

Conjunctivae
 Red
 Pale
 Sclerae
 Icteric

Pupils
 Unequal
 Non-reactive
 Other Lesions

Ears

Discharges
 Other Lesions

Nose

Deviated
 Bleeding
 Other Lesions

Throat

Congested
 Tonsils
 Other Lesions

Neck

Stiff
 Thyroid Enlargement
 Lymphadenopathies
 Mass

Chest

Breasts
 Discharge
 Mass
 Other Lesions

Heart

PMI
 Murmur
 Lungs
 Rales

Abdomen

Tender
 Hard
 Bowel Sounds
 Enlarged Liver
 Spleen

Extremities

Edema
 Varicosities
 Range of Motion

Pelvis

External

Internal

Lab Data

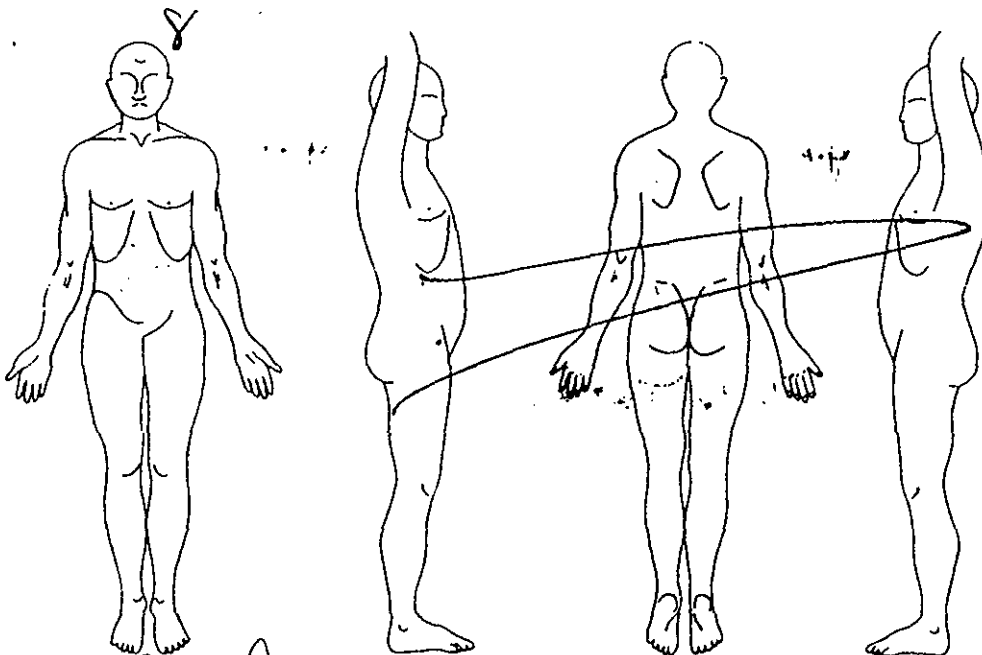
VDRL
 PPD
 PAP Smear
 Other

Vagina
 Cervix
 Uterus
 Adnexae
 Lesions/
 Discharges

Injuries and Identification Marks on Admission

Mark with a numbered arrow
 location of the following

1. Bruise
2. Cut
3. Swelling
4. Sore
5. Amputation
6. Bandage
7. Cast
8. Scar
9. Tattoo
10. Birthmark



Imprint Plate

Patient's Signature

Examiner's Signature

11-4-87

STATE OF ILLINOIS)

) SS.

COUNTY OF COOK)

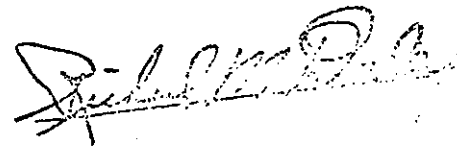
The November, 1987 Grand Jury of the
Circuit Court of Cook County.

The Grand Jurors chosen, selected, and sworn, in and for the County
of Cook, in the State of Illinois, in the name and by the authority of
the People of the State of Illinois, upon their oaths present that on
or about NOVEMBER 4, 1987 at and within the County of Cook

TIBERIUS MAYS

committed the offense of ATTEMPT FIRST DEGREE MURDER

in that HE, WITHOUT LAWFUL JUSTIFICATION WITH INTENT TO COMMIT
THE OFFENSE OF FIRST DEGREE MURDER, INTENTIONALLY AND
KNOWINGLY ATTEMPTED TO KILL JOHN SARNECKI BY
BEATING HIM WITH A PIPE,
IN VIOLATION OF CHAPTER 38, SECTION 2-4/(38-9-1)
OF THE ILLINOIS REVISED STATUTES 1985, AS AMENDED, AND



contrary to the Statute, and against the peace and dignity of the same
People of the State of Illinois.

Charge ID Code: 1547

The Grand Jurors chosen, selected, and sworn, in and for the County
of Cook, in the State of Illinois, in the name and by the authority of
the People of the State of Illinois, upon their oaths aforesaid present
that on or about NOVEMBER 4, 1987 at and within the County of Cook

TIBERIUS MAYS

committed the offense of ARMED ROBBERY

in that HE, BY USE OF FORCE AND BY THREATENING THE IMMINENT
USE OF FORCE WHILE ARMED WITH A DANGEROUS WEAPON,
TOOK A WALLET
FROM PERSON AND PRESENCE OF JOHN SARNECKI,
IN VIOLATION OF CHAPTER 38, SECTION 18-2-A OF THE
ILLINOIS REVISED STATUTES 1985 AS AMENDED, AND

contrary to the Statute, and against the peace and dignity of the same
People of the State of Illinois.

Charge ID Code: 2150

42-2

5 Nov. 1987

Court Branch)

(Court Date)

NY

(1-82) CCMC1-216

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

People of the State of Illinois
Plaintiff

COMPLAINT FOR PRELIMINARY EXAMINATION

v.

NO.

Rius D. MAYS
Defendant

01-01

A. Jaglowski #15153 Area 5 Violent Crimes
(Complainant's Name Printed or Typed)

complainant, now appears before

Circuit Court of Cook County and states that

Rius D. MAYS

(defendant)

has, on or about

v. 1987

(date)

at 5751 W. Corcoran Place, Chicago, Cook County, Ill.

(place of offense)

committed the offense of ATTEMPTED MURDER

in that he

the intent to kill John Sarnecki, took a substantial step towards the commission of
crime of murder by attempting to kill John Sarnecki by striking John Sarnecki about
the head with a piece of pipe.

ation of Chapter

38

Section 8-4(a)

OIS REVISED STATUTES

E OF ILLINOIS

ss.

TY OF COOK

5555 W. Grand Ave. 744-8364

(Complainant's Address)

(Telephone No.)

Det. A. Jaglowski #15153

(Complainant's Name Printed or Typed)

First duly sworn, on his
oath, deposes and says that he has read the foregoing
complaint by him subscribed and that the same is true.

Subscribed and sworn to before me this 4th day of November

87

Morgan M. Finley by
(Judge or Clerk)

19

73

examined the above complaint and the person presenting the same and have heard evidence thereon, and am satisfied that
is probable cause for filing same. Leave is given to file said complaint.

ons issued,

Judge

or

nt Issued,

Bail set at

or

at

Judge

NOV 4 1987

MORGAN M. FINLEY

Judge's No.

MORGAN M. FINLEY, CLERK OF THE CIRCUIT COURT OF COOK COUNTY

2-2
Court Branch)

5 Nov. 1987

(Court Date)

(1-82) CCMC1-216

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

People of the State of Illinois
Plaintiff

COMPLAINT FOR PRELIMINARY EXAMINATION

v.

NO.

Jus MAYS

01-08

Defendant

A. Jaglowski #15153 Area 5 Violent Crimes
(Complainant's Name Printed or Typed)

complainant, now appears before

Circuit Court of Cook County and states that

Jus MAYS

has, on or about

(defendant)

1987.
(date)at 5751 W. Concordan Place, Chicago, Cook County, Ill.,
(place of offense)

ARMED ROBBERY

committed the offense of in that he
 was armed with a dangerous weapon, to wit: an approximate 16 inch piece of pipe, took a
 bag containing miscellaneous identification & credit cards from the person of John
 Becki, by the use of force.

Article of Chapter 38 Section 18-2 (a)

ILLINOIS REVISED STATUTES

E OF ILLINOIS

SS.

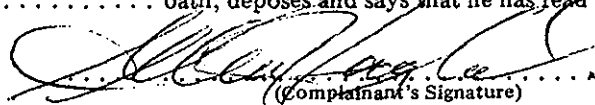
TY OF COOK


 (Complainant's Signature)
5555 W. Grand Ave. 744-8364
(Complainant's Address) (Telephone No.)

Det. A. Jaglowski #15153

(Complainant's Name Printed or Typed)

first duly sworn, on his oath, deposes and says that he has read the foregoing
 complaint by him subscribed and that the same is true.


 (Complainant's Signature)

Subscribed and sworn to before this 4th day of November, 1987.

Morgan M. Finley by

(Judge or Clerk)

examined the above complaint and the person presenting the same and have heard evidence thereon, and am satisfied that
 there is probable cause for filing same. Leave is given to file said complaint.

Writs issued, Judge NOV. 1987

Writ Issued, Bail set at Morgan M. Finley

Writ at Judge

Judge's No.

MORGAN M. FINLEY, CLERK OF THE CIRCUIT COURT OF COOK COUNTY

RE: INVESTIGATION: (The beating of John Sarnecki)

S T A T E M E N T

OF

TIBERIUS MAYS,

taken in an interview room, 2nd floor, Area 5 Headquarters,
5555 West Grand Avenue, Chicago, Cook County, Illinois,
on Wednesday, November 4, 1987, at the hour of 12:15 p.m.

PRESENT: Ms. Evelyn B. Clay,
Assistant State's Attorney.

Det. Al Jaglowski, #15153
Area 5 Violent Crimes.

Reported By: J. Szybist

Book No. 8711-1

MS. CLAY: Let the record reflect that we are in
an interview room at Area 5 Violent Crimes. Today's
date is November 4, 1987. The time is 12:15 p.m. Present
in the room with me, Assistant State's Attorney Evelyn B.
Clay, are Detective Jaglowski, Star No. 15153;
the court reporter and Tiberius Mays.

We are here to take the statement of Tiberius Mays
concerning the investigation of the ^{Battery and robbery} beating of John Sarnecki ^{10. 66}
which occurred on November 4, 1987, at approximately
2 a.m. at 5751 West Corcoran.

BY MS. CLAY:

Q Mr. Mays, I talked to you earlier and explained that

I am an assistant state's attorney, a lawyer working with the police and not your lawyer, is that correct?

A Correct.

Q Okay. And before we spoke, I advised you of your constitutional rights, isn't that correct?

A Yes.

Q I am going to give them to you all over again now.

Do you understand that you have a right to remain silent?

A Yes.

Q Do you understand that anything you say can be used against you in a court of law?

A Yes.

Q Do you understand you have the right to talk to a lawyer and have him present with you while you are being questioned?

A Yes.

Q Do you understand if you cannot afford to hire a lawyer, one will be appointed by the court to represent you before any questioning if you wish one?

A Yes.

Q Now, understanding these rights, do you wish to talk to us now?

A Yes.

Q Now, I talked to you earlier today, isn't that correct?

A Yes.

A Two.

Q All right. And at that time did you tell them -- did they question you about the beating?

A They came in and they said basically -- they came in and they asked me if I was Ti or Tiberius and then they --

Q All right.

A -- and then they said we know you did this and that and --

Q Did you relate to them what happened?

A And I denied and they hit me a couple of times, you know. They said they were going to do this and they were going to do that and then --

Q Did --

A -- one of the officers went in the bathroom and got the wallet out and asked me where is the information at.

Q All right. Was that wallet that he presented to you the same one that you removed off the body of the man that you had beaten with the pipe?

A Yes, I assume it was.

Q It was the same wallet that you flushed in that apartment?

A Right.

Q That's the same wallet that you flushed down the toilet. Okay. Did you show the officers where you had hidden the credit cards?

tried to T.M. ESC

T.M.

Q And you have been allowed to use the phone, isn't that correct?

A Yes.

Q And have I made any promises to you?

A No.

Q Have I threatened you in any way?

A No.

Q And what you have just stated to me is true --

A Yes.

Q -- is that correct, Mr. Mays?

A Yes, it is.

MS. CLAY: That's the end of the -- it is now 12:39, and this is the end of the statement.

T.M.X. Thomas D. Mays

WITNESSES TO SIGNATURE:

Charles B. Clay, A.S.A.

William J. Mays